

No. 14-0366 PO

¹ All references to “CSR” are to the Missouri Code of State Regulations, as current with amendments included in the Missouri Register through the most recent update.

on May 28, 2014. We notified Hill that he should file any response by June 13, 2014, but he filed nothing.

We may grant a motion for summary decision if a party establishes facts that entitle any party to a favorable decision and no party genuinely disputes such facts. 1 CSR 15-3.446(6)(A). Parties may establish a fact, or raise a dispute as to such facts, by admissible evidence. 1 CSR 15-3.446(6)(B). The Director relies on the documents submitted with the motion: his affidavit of Hill's licensure and certified copies of court records. The records are admissible pursuant to § 490.130² and § 536.070(6). And, by failing to respond to the motion, Hill has failed to raise a genuine issue as to the facts the Director established therein. 1 CSR 15-3.446(6)(B).

Accordingly, the following findings of fact are undisputed.

Findings of Fact

1. Hill holds a peace officer license issued by the Director that has been current and active since November 28, 2012.
2. On November 25, 2013, in the circuit court of Henry County, Missouri, Hill pled guilty to the Class D felony of defrauding a secured creditor, in violation of § 570.180, RSMo 2000. Hill committed that criminal offense.
3. Hill received a suspended imposition of sentence and five years' supervised probation. He was ordered to pay \$5,000 in restitution.

Conclusions of Law

We have jurisdiction over this case. § 590.080.2. The Director has the burden of proving that Hill has committed an act for which the law allows discipline. *See Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App., E.D. 1989).

² Statutory citations are to the RSMo Supp. 2013, unless otherwise indicated.

The Director alleges that there is cause for discipline under § 590.080:

1. The director shall have cause to discipline any peace officer licensee who:

* * *

(2) Has committed any criminal offense, whether or not a criminal charge has been filed[.]

The certified court records establish that Hill pled guilty to defrauding a secured creditor, which is a Class D felony if the amount owing on the secured debt is \$500 or more. Although a guilty plea resulting in a suspended imposition of sentence does not collaterally estop Hill from presenting evidence to the contrary, it is competent and substantial evidence that he did commit the criminal offense. *Director of Public Safety v. Bishop*, 297 S.W.3d 96, 99 (Mo. App. W.D. 2009). As Hill presented no evidence to disprove the fact, we conclude that he committed the crime of defrauding a secured creditor. He is subject to discipline under § 590.080.1(2).

Summary

There is cause to discipline Hill's license under § 590.080.1(2).

SO ORDERED on June 23, 2014.

\s\ Karen A. Winn

KAREN A. WINN

Commissioner